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|-------------------------------|------------------------|----------------------|--|
| <b>Notice of Allowability</b> | <b>Application No.</b> | <b>Applicant(s)</b>  |  |
|                               | 09/910,933             | RESHEFSKY, MARC ALAN |  |
|                               | <b>Examiner</b>        | <b>Art Unit</b>      |  |
|                               | Shaima Q. Aminzay      | 2684                 |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 21 Jun 2004.
2. ☒ The allowed claim(s) is/are 1-23.
3. ☒ The drawings filed on 15 Jun 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

## ***Detailed Action***

### ***Allowable Subject Matter***

1. Claims 1-23 are allowed.

### ***Reasons for Allowance***

The following is an examiner's statement of reason for allowance:

2. The closest prior art Jones (Jones, US Patent No. 6,606,506), Antle (Antle, US Patent No. 4,499,593), and Kim (Kim, US Patent No. 6,278,884) failed to render obviousness in combination or individually and failed to anticipate individually the following underlined limitations:

"An apparatus for providing portable audio programming for a user while preventing the user from missing telephone calls comprising: a pair of headphones each of which has a housing containing a speaker; a head band connecting each of said headphones adapted to be fitted over the head of a user so that the headphones fit over a user's ears said head band also containing electrical transmission means electrically connecting the speakers in the headphones; at least one of said headphones being provided with at least a pair of female ports adapted to receive cable plugs which are formed on the end of

cables leading to an external auxiliary audio device and an external cellular telephone separate from said auxiliary audio device and means in at least one headphone to terminate an audio signal emanating from said auxiliary audio device; and a microphone mounted on a cable leading to said cellular telephone with means for receiving and transmitting audible messages during a telephone conversation" disclosed in claim 1. Claims 2 – 7 are allowable as being dependent on claim 1.

"An apparatus for providing portable audio programming for a user while preventing the user from missing telephone calls comprising: a pair of headphones having a housing with speaker means mounted therein; a head band connecting said headphone adapted to be fitted over the head of a user, said head band also containing electrical means electrically connected to the speakers in the headphones; at least one of said headphones being provided with at least a pair of female ports, receiver means mounted to said female ports, said receiver means being constructed to receive signals emanating from an auxiliary audio device and a cellular telephone; switching circuit means located in said housing with said female ports to interrupt audio signals received by said receiver means from an auxiliary audio device before such signals are transmitted to a speaker when said cellular telephone is activated by an incoming call and emits a signal; and a microphone connected to said housing for receiving audible messages from said user" disclosed in claim 15. Claims 16 – 20 are allowable as being dependent on claim 15.

"Apparatus for providing portable audio programming for a user while preventing the user from missing telephone calls comprising: a pair of headphones each of which has a housing containing a speaker; at least one housing containing a switching circuit which is activated by an incoming telephone call to switch off the audio signal from an auxiliary audio device; a head band connecting each of said headphones adapted to be fitted over the head of a user so that the headphones fits over a user's ears, said head band also containing electrical transmission means electrically connecting the speakers in the headphones; at least one of said headphones being provided with at least a pair of female ports adapted to receive cable plugs which are formed on the end of cables leading to an auxiliary audio device and a cellular telephone; and a microphone mounted on a cable leading to said cellular telephone for receiving and transmitting audible messages during a telephone conversation, said microphone containing a switch for activating and deactivating said cell phone" disclosed in claim 21. Claims 22 – 23 are allowable as being dependent on claim 21.

3. Regarding claim 8, the present invention is of an apparatus for providing portable audio programming for a user while preventing the user from missing telephone calls comprising: a pair of headphones, each headphone being provided with a housing with a speaker mounted therein; a head band connecting said headphones adapted to be fitted over the head of a user, said head band

also containing electrical transmission means connected to the speakers in the headphones; at least one of said headphones housings being provided with at least a pair of female ports adapted to receive cable plugs secured to the end of cables, said cables being constructed to engage an auxiliary audio device and a cellular telephone; switching circuit means located in said housing in connection with at least one of said female ports to interrupt audio signals transmitted from an auxiliary audio device when a cellular telephone is activated by an incoming call; and a microphone mounted on a cable leading from said housing to said cellular telephone for receiving and transmitting audible messages occurring during a telephone conversation.

The closest prior art, Jones (Jones, US Patent No. 6,606,506) in view of Antle (Antle, US Patent No. 4,499,593) in further view of Kim (Kim, US Patent No. 6,278,884) teach of an apparatus for providing portable audio programming for a user while preventing the user from missing telephone calls comprising: a pair of headphones, each headphone being provided with a housing with a speaker mounted therein; a head band connecting said headphones adapted to be fitted over the head of a user, said head band also containing electrical transmission means connected to the speakers in the headphones; and a microphone mounted on a cable leading from said housing to said cellular telephone for receiving and transmitting audible messages occurring during a telephone conversation, but alone or in combination with other prior art not specifically of at least one of said headphones housings being provided with at least a pair of

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female ports adapted to receive cable plugs secured to the end of cables, said cables being constructed to engage an auxiliary audio device and a cellular telephone; switching circuit means located in said housing in connection with at least one of said female ports to interrupt audio signals transmitted from an auxiliary audio device when a cellular telephone is activated by an incoming call. Claims 9 - 14 are allowable as being dependent on claim 8.

### ***Conclusion***

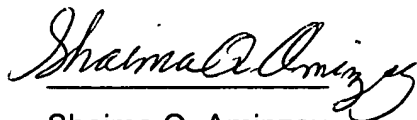
4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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### ***Inquiry***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaima Q. Aminzay whose telephone number is 703-305-8723. The examiner can normally be reached on 7:00 AM -5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Shaima Q. Aminzay  
(Examiner)

  
NAY MAUNG  
SUPERVISORY PATENT EXAMINER

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Nay Maung  
(SPE)

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November 23, 2000